

FRANCISCO G. RODRIGUEZ OR HIS HEIRS, ANITA RODRIGUEZ DE LA RAMA, CAROLINA RODRIGUEZ LACSON, AND MARIA VICTORIA RODRIGUEZ LOPEZ, AND SEVERINO OGATIS, ET AL., OR THEIR HEIRS, PETI...*G.R. No. L-37522. November 28, 1975*

Ponente: ANTONIO, J.

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Certiorari to set aside the order of the Court of Appeals dated March 26, 1973, dismissing petitioners' appeal in CA-G.R. No. 50784-R, Flora Positos, et al. vs. Municipality of La Carlota, et al., on the ground "that the record on appeal failed to show on its face that the appeal was perfected on time for failure to state therein the date when the appellants received the order, allowing them to amend the record on appeal".

At the court a quo petitioners were defendants in Civil Case No. 7317, an action instituted by herein private respondents to quiet title over certain properties situated at La Carlota, Negros Occidental. Judgment was rendered in favor of the private respondents and against petitioners who were the defendants/intervenor in the above-mentioned case. Motion for reconsideration of the aforementioned decision having been denied, petitioners filed their Notice of Appeal, Appeal Bond and Record on Appeal. Contending that the appeal was not perfected within the reglementary period of thirty (30) days, private respondents filed a motion to dismiss the appeal, and on November 4, 1969, the trial court, finding the motion to dismiss the appeal to be well-founded, dismissed the appeal. As a consequence of that dismissal, petitioners filed a petition for mandamus with the Court of Appeals^[1] for the purpose of compelling the respondent Judge to approve the Record on Appeal and Appeal Bond and to elevate and certify the appeal to the said court. In the afore-mentioned case, the Court of Appeals rendered judgment on December 17, 1970, declaring in effect that the Notice of Appeal, Appeal Bond and Record on Appeal were filed within the reglementary period of thirty (30) days and, consequently, nullified the order of the trial court on November 4, 1969 dismissing the appeal as it "deprived petitioners of their right to appeal the decision in Civil Case No. 7317 of the Court of First Instance of Negros Occidental," but ordered the respondent Judge to rule on the objection of the private respondents on the record on appeal, and to grant petitioners a reasonable time to amend the same, should it be found necessary, to incorporate additional pleadings in the original record on appeal. This judgment is now final and conclusive upon the parties. Thus, the appellate court stated:

"The first issue to resolve is whether or not petitioners' appeal in Civil Case No. 7317 was filed within the reglementary period of 30 days.

"From the facts unwrapped above, the affirmative view to the query is incontestable. A simple mathematical computation sustains it, considering that from June 28, 1969, the date Atty. Gabriel Benedicto, counsel for petitioners, actually received copy of the decision, to July 19, 1969, when he filed their motion for reconsideration, which interrupted the running of the reglementary period, it being not a mere pro forma as an examination of the contents thereof would readily show, only 21 days had elapsed, and from August 20, 1969,

the date Atty. Benedicto received the order denying his motion for reconsideration, to August 22, 1969, when he filed the record on appeal and appeal bond in implementation of the notice of appeal he filed on August 20, 1969, just 2 days had further elapsed. In other words, petitioners had consumed only 23 days of the prescribed period of 30 days within which to perfect the appeal.

"Respondents, however, contend that the aforesaid reglementary period should be reckoned with from May 28, 1969, that is, 5 days from the first notice of the postmaster to Atty. Gabriel Benedicto on May 23, 1969, regarding the registered mail containing the decision, but which the latter failed to claim, and that therefore, petitioners had only up to June 27, 1969, within which to perfect their appeal, so that, when they filed their appeal on August 22, 1969, the period for appeal had long expired. The foregoing theory would have been unassailable were it not for the fact that the registered mail in question was sent to Atty. Benedicto at La Carlota City, not at the latter's address appearing in the pleadings in Civil Case No. 7317, which is, P.O. Box 269 Bacolod City. As to be expected said registered mail was returned unclaimed. Paraphrasing, there was no valid service of the decision until Atty. Benedicto actually received it on June 28, 1969. And, the pretension of respondents that it was so sent to La Carlota City, because Atty. Benedicto could not be located at Bacolod City, would not justify the transmittal of the decision to the unrecorded address of Atty. Benedicto.

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"WHEREFORE, we grant the instant petition, declare the order of November 4, 1969, dismissing the appeal in question (Annex 29, Reply to Answer), null and void for being illegal, as it deprived petitioners of their right to appeal the decision in Civil Case No. 7317 of the Court of First Instance of Negros Occidental, order respondent Judge to rule on the objection of plaintiffs, private respondents herein, in the record on appeal of defendants, petitioners herein, in the aforestated. Civil Case No. 7317, to grant said defendants – if said record on appeal need be amended for the purpose of incorporating any necessary pleadings which have not been included therein – a reasonable time to do so, and thereafter to approve the record on appeal on either of the appeal bond in issue if it, record on appeal, is found to be already in keeping with the Rules of Court, and to certify and elevate the records of Civil Case No. 7317 to this Court. Costs against respondents."

On January 12, 1972, the court [a quo] ordered the defendants and intervenor to submit within fifteen (15) days from receipt of said order

"x x x an amended record on appeal by incorporating therein the following pleadings: (1) Answer of the defendant Municipality of La Carlota (now City of La Carlota) both in the original complaint and in the amended complaint, it appearing that the appealed decision has reference to the answer of the said defendant City; (2) Motion to declare defendants in default in the Second Cause of Action except Pedro Ogatis and the Order declaring them in default, for the reasons that the plaintiffs opposed the admission of answer filed by other defendants and there is no way to understand the subject admission of answers of other defendants and subsequent answers become controversial and will be raised in the appeal; (3) Paragraph 3, page 1, of the Record on Appeal should only state Pilar Rodriguez, as an answering defendant, it appearing that Anita Rodriguez defaulted and is not represented by Atty. Gabriel Benedicto; (4) Motion for leave to intervene dated July 30, 1964, the opposition thereto, and order approving the intervention, for the reason that the plaintiffs will raise the issue of jurisdiction, intervenor having not paid the docket fee in intervention; and, lastly (5) the order dated August 2, 1969, together with the motion for reconsideration and the opposition thereto."

In compliance with the foregoing order, on February 14, 1972, petitioners filed with said court the Amended Record on Appeal which was approved on March 4, 1972. In its order of approval, the trial court stated:

"It appearing that the defendants and Intervenor had already complied with the order dated November 25, 1971, by attaching to the amended record on appeal the amended answer of defendant City of La Carlota to the amended complaint, marked as Annex 'E-1', of said amended record on appeal; and with the order dated February 26, 1972, by submitting to this Court a certification to the effect that the Luzon Surety Co., Inc., who

posted the appeal bond, is not blacklisted, and it likewise appearing that the amended record on appeal is in order and in accordance with law, the same together with the appeal bond, is hereby granted, and the Clerk of Court is hereby ordered to transmit all the evidence, oral and documentary, to the Court of Appeals."

On June 5, 1972, the records of the case were transmitted to the Court of Appeals. Alleging that the Amended Record on Appeal failed to show on its face that the same was submitted within the fifteen-day period prescribed by the Court, private respondents, as appellees, moved on September 9, 1972, for the dismissal of the appeal. On March 26, 1973, the appellate court dismissed the appeal, thus:

"Considering the motion to dismiss appeal, filed by counsel for plaintiffs-appellees, on the grounds stated therein, and it appearing that the record on appeal failed to show on its face that the appeal was perfected on time for failure to state therein the date when the appellants received the order allowing them to amend the record on appeal, and the opposition thereto, filed by counsel for the defendants-appellants, on the grounds stated therein; Motion to Dismiss Appeal GRANTED and the appeal in this case is considered DISMISSED."

This order was received by petitioners on May 7, 1973. Consequently, on May 12, 1973, they filed a Motion for Reconsideration, together with the certification of the Clerk of Court of the court [a quo] to the effect that the records of Civil Case No. 7317 show that the counsel for defendants and intervenor received the order of the said court dated January 12, 1972 on January 31, 1972. The appellate court, on August 10, 1973, denied the motion for reconsideration, hence, this petition for certiorari.

The main purpose of the requirement, that the record on appeal must contain "such data as will show that the appeal was perfected on time",^[2] is to enable the appellate court to determine, on the basis of the record on appeal and without the need of adducing independent evidence, that the appeal has been made on time.^[3] It is primarily intended for the appellate courts to facilitate the appeal in consonance with the requirements of an effective and efficient administration of justice.

In the case before Us, with the findings of the Court of Appeals in the previous case,^[4] to the effect that the notice of appeal, appeal bond and original record on appeal were filed on time, and of the Court below that the amended record on appeal "is in order and in accordance with the law" clearly implying that the amended record on appeal was filed on time the veracity of which is not impugned by private respondents, We find no logical purpose to be served by the appellate Court's requirement that the amended record on appeal should also state the date when appellants received the order requiring them to amend the record on appeal for the purpose of enabling said Court to ascertain whether or not the appeal was perfected on time.

As early as the case of *Vda. de Oyzon vs. Vinzon*,^[5] We ruled that: "The fact that the amended record on appeal was submitted after the reglementary 30-day period, did not render the perfection thereof untimely, because the amended record on appeal is deemed to have been filed on the presentation of the original, which was done within the reglementary period." As We explained in *Philippine Independent Church vs. Juana Mateo, et al.*,^[6] "amendment presupposes the existence of something to be amended, and, therefore, the tolling of the period should relate back to the filing of the pleading sought to be amended * * *".

Here, private respondents do not dispute the fact that the amended record on appeal was filed within the fifteen-day period prescribed by the court. It was for this reason that the trial court declared that the amended record on appeal "is in order and in accordance with law". As We emphasized in *Berkenkotter v. Court of Appeals*,^[7] and *Morales, et al. vs. Court of Appeals, et al.*,^[8] "no trial judge in his right mind and who is aware of the serious responsibilities of his office, would approve a record on appeal that was not timely filed." Indeed, the trend of the rulings of this Court is to afford every party-litigant the amplest opportunity for the proper and just determination of his cause, freed from the constraints of technicalities.

ACCORDINGLY, the resolution of the Court of Appeals dated March 26, 1973, dismissing petitioners' appeal, and the subsequent resolution dated August 10, 1973, denying their motion for reconsideration, are hereby reversed and set aside. Case remanded to the Court of Appeals for decision on the merits.

Fernando, (Acting Chairman), Barredo, Aquino, and Concepcion, Jr., JJ., concur.

[1] CA-G.R. No. 44720-R, entitled "Francisco G. Rodriguez, or his heirs, and Severino Ogatis, et al., or their heirs, Petitioners, vs. The Honorable Judge Jose F. Fernandez, and Flora Positos, et al., or their heirs, Respondents."

[2] Section 6, Rule 41, Rules of Court.

[3] Marcelo Steel Corporation vs. Court of Appeals, L-35851, October 8, 1974, 60 SCRA 81.

[4] CA-G.R. No. 44720-R, *supra*.

[5] L-19360, July 26, 1963, 8 SCRA 455.

[6] L-14793, April 22, 1961, 111 Phil. 752.

[7] L-36629, September 20, 1973, 53 SCRA 236.

[8] L-37229, October 21, 1975.

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